



DEPARTMENT OF THE NAVY

OFFICE OF THE CHIEF OF NAVAL OPERATIONS

2000 NAVY PENTAGON

WASHINGTON, DC 20350-2000

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Ser DNS-36SF/17U105073

August 30, 2017

Sent via email to: andy.flavin@troutmansanders.com

Mr. Andrew J. Flavin
Troutman Sanders LLP
Troutman Sanders Building
1001 Haxell Point
Richmond, Virginia 23219

Dear Mr. Flavin:

This is in reference to your Freedom of Information Act (FOIA) request dated April 3, 2017. Your request was received in our office on April 7, 2017 and assigned case number DON-NAVY-2017-005068. After discussion regarding the potential volume of responsive documents, on May 1, 2017, you narrowed your request to:

...all final assessments, studies, reports, evaluations or determinations prepared by the United States Department of the Navy ("Navy"), or at its direction, containing conclusions about the Navy's allocation or proportion of liability as a potentially responsible party ("PRP") at the Atlantic Wood Industries, Inc. ("AWI") Superfund Site, located at 3904 Burtons Point Rd in Portsmouth, VA ("the Site"). I am also interested in any draft or final allocation agreement or settlement agreement between the Navy and any other party relating to the AWI Superfund Site.

In the course of processing your FOIA request this office contacted the Navy Facilities Command, Mid-Atlantic, (NAVFAC MIDLANT); the Office of General Counsel, Navy Litigation Office (NLO); the Office of the Assistant Secretary of the Navy-Energy, Installations, & Environment (ASN, EI&E) to conduct a search for applicable records. Subsequently, those offices searched their local files for records relating to your modified request. Additionally, this office conducted coordination between the Department of Justice and the Environmental Protection Agency as they are necessary parties to the equities contained in each of these documents.

In total, 20 responsive records pertaining to Final assessments, studies, reports, evaluation or determinations prepared by the Navy or its' contractors were located. Upon review of these documents, we have determined that they contain instances of deliberative process privileged material, are predecisional in nature, and/or contain working versions of documents, and are thus exempt from disclosure under 5 U.S.C. § 552(b) (5). They contain drafts and/or proposals of documents not in their final form, and, therefore, are exempt from disclosure in their entirety. In accordance with 5 U.S.C. § 552, (8) (A) (ii) (I), the Navy took into consideration whether partial disclosure of information is possible whenever the agency determines that a full disclosure of a requested record is not possible.

5 pages	February 27, 2009	"Presentation to EPA- Suggested Cost Allocation, AWI Site, Portsmouth, Virginia
6 Pages	2010	Navy response to EPA Settlement Proposal
1" binder	March 14, 2012	Evaluation of Contamination Sources at the Atlantic Wood Industries Superfund Site, Portsmouth, VA
10pages	August 2012	Atlantic Wood Industries Superfund Site Proposed Cost Allocation
35 pages	February 13, 2013	Cost Allocation Review Powerpoint Presentation
9 pages	April 25, 2013	Atlantic Wood Industries Superfund Site Proposed Cost Allocation
16 pages	May 7, 2013	AWI Superfund Site & Navy Cost Allocation PowerPoint
9 pages	June 2013	Atlantic Wood Industries Superfund Site Proposed Cost Allocation
26 pages	June 24 2014	24 June 2014 DASN (EI&E) brief on AWI Cleanup and Navy PRP Cost Allocation
18 pages	June 24 2014	DASN (EI&E) brief on AWI Cleanup and Navy PRP Cost Allocation (Back Brief for NNSY CO)
12 pages	Nov. 2014	AWI Superfund Site Proposed Cost Allocation: US Department of the Navy.
117 pages	July 7, 2015	Draft Technical Memorandum, Comprehensive Cost Allocation Factors Summary
4" binder	Oct 2015	"Comprehensive Cost Allocation Factors Summary, Atlantic Wood Superfund Site, Portsmouth, VA, October 2015"
7 pages	Dec. 2015	NAVFAC Position Response Summary Statement for Atlantic Wood Site
40 pages	Jan 29, 2016	"Recommended Allocation of Responsibility for Sediment Remediation Costs"

3 pages	May 26 2016	Allocation of responsibility for Sediment Remediation Costs, AWI, Inc. Superfund Site, Portsmouth, Virginia.
48 pages	June 30, 2016	Recommended Allocation of Responsibility for Sediment Remediation Costs

In total, 17 responsive records pertaining to draft or final allocation agreement or settlement agreement between the Navy and any other party relating to the AWI Superfund Site were located. Upon review, 14 of these documents, contain instances of deliberative process privileged material, are predecisional in nature, and/or contain working versions of documents, and are thus exempt from disclosure under 5 U.S.C. § 552(b)(5). They contain drafts and/or proposals of documents not in their final form, and, therefore, are exempt from disclosure in their entirety. In accordance with 5 U.S.C. § 552, (8)(A)(ii)(I) the navy took into consideration whether partial disclosure of information is possible whenever the agency determines that a full disclosure of a requested record is not possible.

13 pages	Undated	Draft settlement agreement with AWI and Navy
11 pages	Undated	Draft settlement agreement with AWI and Navy
11 pages	Undated	Draft settlement agreement with AWI and Navy
14 pages	10/13/01	Draft settlement agreement with AWI and Navy
12 pages	12/01/01	Draft settlement agreement with AWI and Navy
16 pages	Undated	Draft settlement agreement with AWI and Navy
12 pages	Undated	Draft settlement agreement with AWI and Navy
13 pages	Undated	Draft settlement agreement with AWI and Navy
14 pages	Undated	Draft settlement agreement with AWI and Navy
13 pages	Undated	Draft settlement agreement with AWI and Navy
12 pages	Undated	Draft settlement agreement with AWI and Navy
51+ page	Undated	Draft consent decree
22 pages	August 28, 2001	Draft AOC with handwritten marginalia
25 pages	Undated	Draft AOC

The remaining 3 documents are released to you in their entirety.

16 pages	2002	Settlement Agreement with AWI
24 pages	April 23, 1998	Correspondence pertaining to the Administrative Order on Consent to settle past response costs

27 pages	2002	AOC, Docket No. 03-2003-0004-DC
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Questions regarding the action this office has taken to process your request may be directed to our FOIA Service Center at (202) 685-0412.

Because your request is partially denied, you are advised of your right to appeal this determination by writing to:

Department of the Navy
Office of the General Counsel
1000 Navy Pentagon Room 4E635
Washington DC 20350-1000

Your appeal must be postmarked within ninety calendar days from the date of this letter. A copy of your initial request and this letter must accompany the appeal. The appeal should be marked "FREEDOM OF INFORMATION APPEAL" both on the envelope and the face of the letter. In order to expedite the appellate process and ensure full consideration of your appeal, your appeal should contain a brief statement of the reasons you believe this decision to be in error.

In this instance, the fees associated with processing this request were below the minimum threshold and have not been assessed. Please be advised, however, that fees, fee categories, and fee waivers are determined on a case-by-case basis, and a previous determination has no influence on future determinations.

For this determination, you have the right to seek dispute resolution services from either the DoD Navy Component FOIA Public Liaison, Mr. Chris Julka, at: Christopher.a.julka@navy.mil, via phone: (703) 697-0031; or by contacting the Office of Government Information Services at: (<https://ogis.archives.gov/>), (202) 741-5770, ogis@nara.gov.

Sincerely,



R. Patterson
Head, DON PA/FOIA Program Office